

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CHRIS RIVERA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-201291

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 12, 2001, and voted to accept jurisdiction of Sworn Complaint SC-201291 filed against Chris Rivera, Respondent. The commission met again on May 11, 2001, to consider Sworn Complaint SC-201291. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Section 254.064, Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

The complainant alleges that the respondent, a candidate for county commissioner, failed to timely file his 8-day before election campaign finance report for the November 7, 2000, general election.

III. Facts Supported by Credible Evidence

Credible evidence available to the commission supports the following findings of fact:

1. At all times relevant to this complaint, the respondent was an opposed candidate for county commissioner in the November 7, 2000, general election. The respondent was successful in the election.
2. The respondent filed an 8-day before election report with the elections administrator for the November 7, 2000, general election, and the report was stamped as received on January 5, 2001. The report was due by October 30, 2000.

3. The report covers the period beginning October 7, 2000, through December 26, 2000. The prescribed reporting period for this 8-day before election report is from September 29, 2000 through October 28, 2000. The activity disclosed in the report consisted of political contributions totaling \$6,250 and political expenditures totaling \$4,367.74, and discloses \$3,000 as the principal amount of all outstanding loans.
4. The respondent filed a corrected 8-day before election report that was stamped as received on February 13, 2001. The corrected report covers the period beginning October 7, 2000, through December 31, 2000, is marked as an 8-day before election report and January semiannual report, and discloses political contributions totaling \$7,715.83 and political expenditures totaling \$5,833.57, and discloses \$3,000 as the principal amount of all outstanding loans. In his good-faith affidavit for the corrected report, the respondent states that only the proceeds from a barbeque fundraiser were reported on the original report and that the corrected report reflects expenses incurred for the fundraiser.

IV. Findings and Conclusions of Law

The facts described in Section III support the following findings and conclusions of law:

1. An opposed candidate is required to file pre-election reports by the 30th day and the 8th day before the election. Section 254.064, Election Code.
2. The filing authority's date stamp shows that the respondent failed to timely file his 8-day before election campaign finance report, and therefore, there is credible evidence that the respondent violated Section 254.064, Election Code.

V. Representations and Agreement by Respondent

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. The respondent neither admits nor denies the facts described under Section III and the commission's findings and conclusions of law described under Section IV, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law.

3. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violation described under Section IV, Paragraph 2, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

VI. Confidentiality

This ORDER and AGREED RESOLUTION describes a violation that the commission has determined is neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Section 571.140, Government Code, and may be disclosed by members and staff of the commission.

VII. Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$1,000 civil penalty for the violation described under Section IV, Paragraph 2.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-201291;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$1,000 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than June 8, 2001; and
4. that the executive director shall promptly refer SC-201291 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-201291 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 2001.

Chris Rivera, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director